

## **STATUTE TEXT**

### **CHAPTER 6-A. DNA DETECTION OF SEXUAL AND VIOLENT OFFENDERS**

RS (Revised Statutes) 15:601 Short title

This Chapter shall be known as the "DNA Detection of Sexual and Violent Offenders Act".

#### **RS 15:602. Legislative findings and objectives**

The Louisiana Legislature finds and declares that DNA data banks are important tools in criminal investigations, in the exclusion of individuals who are the subject of criminal investigations or prosecutions, and in deterring and detecting recidivist acts. More than forty states have enacted laws requiring persons arrested for or convicted of certain crimes, especially sex offenses, to provide genetic samples for DNA profiling. Moreover, it is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in the identification and detection of individuals in criminal investigations and in the identification of missing persons, to assist in the recovery or identification of human remains from disasters, and to assist with other humanitarian identification purposes. It is therefore in the best interest of the state to establish a DNA data base and a DNA data bank containing DNA samples submitted by individuals arrested, convicted, or presently incarcerated for felony sex offenses and other specified offenses.

#### **RS 15:603. Definitions**

For purposes of this Chapter, the following terms shall have the following meanings:

- (1) "CODIS" means Combined DNA Index System, the Federal Bureau of Investigation's national DNA identification index system that allows the storage and exchange of DNA records submitted by state and local forensic DNA laboratories.
- (2) "Criminal justice agency" means any criminal justice agency as defined in R.S. 15:576(3).
- (3) "Deputy secretary" means the deputy secretary of the Department of Public Safety and Corrections, public safety services, or the commander of the Louisiana State Police.
- (4) "DNA" means deoxyribonucleic acid, which is located in cells and provides an individual's personal genetic blueprint and which encodes genetic information that is the basis of human heredity and forensic identification.
- (5) "DNA record" means DNA identification information stored in the state DNA data base or the Combined DNA Index System for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results. The DNA record is the result obtained from the DNA typing tests. The DNA record is comprised of the characteristics of a DNA sample which is of value in establishing the identity of individuals.
- (6) "DNA sample" means a blood, tissue, or bodily fluid sample provided by any person with respect to offenses covered by this Chapter or submitted to the state police criminalistics laboratory pursuant to this Chapter for analysis or storage, or both.
- (7) "FBI" means the Federal Bureau of Investigation.
- (8) "Felony" means any crime for which an offender may be sentenced to death or imprisonment at hard labor.
- (9) "Felony-grade delinquent act" means an offense that if committed by an adult, may be punished by death or by imprisonment at hard labor.
- (10) "Other specified offense" means a commission of the following:
  - (a) A violation of R.S. 14:34.2 through 34.5.
  - (b) A violation of R.S. 14:35 through 37.
  - (c) A violation of R.S. 14:37.3.
  - (d) A violation of R.S. 14:38.
  - (e) A violation of R.S. 14:38.2.
  - (f) A violation of R.S. 14:40.2.

- (g) A violation of R.S. 14:80.1.
- (h) A violation of R.S. 14:82.
- (i) A violation of R.S. 14:83 through 83.1.
- (j) A violation of R.S. 14:83.3 through 83.4.
- (k) A violation of R.S. 14:85 through 85.1.
- (l) A violation of R.S. 14:284.
- (11) "State police" means the office of state police or the state police criminalistics laboratory.

**RS 15:604. Powers and duties of state police**

In addition to any other powers and duties conferred in this Chapter, the state police shall:

- (1) Be responsible for the policy management and administration of the state DNA identification record system to support law enforcement agencies and other criminal justice agencies.
- (2) Promulgate rules and regulations to carry out the provisions of this Chapter.
- (3) Provide for liaison with the FBI and other criminal justice agencies in regard to the state's participation in CODIS or in any DNA data base designated by the state police.

**RS 15:605. State DNA data base**

There is hereby established the state DNA data base. It shall be administered by the state police and provide DNA records to the FBI for storage and maintenance by CODIS. The state DNA data base shall have the capability provided by computer software and procedures administered by the state police to store and maintain DNA records related to:

- (1) Forensic casework.
- (2) Offenders required to provide a DNA sample under this Chapter.
- (3) Anonymous DNA records used for research or quality control.

**RS 15:606. State DNA data bank**

There is hereby established the state DNA data bank. It shall serve as the repository of DNA samples collected under this Chapter.

**RS 15:607. State police recommendation of additional offenses**

The state police may recommend to the legislature that it enact legislation for the inclusion of additional offenses for which DNA samples shall be taken and otherwise subjected to the provisions of this Chapter. In determining whether to recommend additional offenses, the state police shall consider those offenses for which DNA testing will have a substantial impact on the detection and identification of sex offenders and violent offenders.

**RS 15:608. Procedural compatibility with FBI**

The DNA identification system as established by the state police shall be compatible with the procedures specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software.

**RS 15:609. Drawing or taking of DNA samples**

- A.(1) A person who is arrested for a felony or other specified offense, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses on or after September 1, 1999, shall have a DNA sample drawn or taken at the same time he is fingerprinted pursuant to the booking procedure.
- (2) For purposes of this Chapter, a juvenile who is arrested for an offense covered by this Chapter or adjudicated delinquent for the commission of a felony-grade delinquent act, including an attempt, conspiracy, criminal solicitation, or accessory after the fact of a felony-grade delinquent act shall be considered a person who is arrested for a felony or other specified offense.

B.(1) Any person who is convicted or enters into a plea agreement resulting in a conviction on or after September 1, 1999, for a felony or other specified offense, including an attempt, conspiracy, criminal solicitation, or accessory after the fact for such offenses committed prior to that date shall have a DNA sample drawn as follows:

(a) A person who is sentenced to a term of confinement for an offense covered by this Chapter shall have a DNA sample drawn upon intake to a prison, jail, or any other detention facility or institution. If the person is already confined at the time of sentencing, the person shall have a DNA sample drawn immediately after the sentencing.

(b) A person who is convicted or enters into a plea agreement resulting in a conviction for an offense covered by this Chapter shall have a DNA sample drawn as a condition of any sentence that will not involve an intake into a prison, jail, or any other detention facility or institution.

(c) Under no circumstances shall a person who is convicted or enters into a plea agreement resulting in a conviction for an offense covered by this Chapter be released in any manner after such disposition unless and until a DNA sample has been withdrawn.

(2) For purposes of this Chapter, a juvenile who is arrested for an offense covered by this Chapter or adjudicated delinquent for the commission of a felony-grade delinquent act, including an attempt, conspiracy, criminal solicitation, or accessory after fact for such offenses shall be considered a person who is convicted for a felony or other specified offense.

C. A person who has been convicted or enters into a plea agreement resulting in a conviction for a felony or other specified offense before September 1, 1999, including an attempt, conspiracy, criminal solicitation, or accessory after the fact for such offenses and who is still serving a term of confinement in connection therewith on that date shall not be released in any manner prior to the expiration of his maximum term of confinement unless and until a DNA sample has been withdrawn.

D. All DNA samples taken pursuant to this Chapter shall be taken in accordance with regulations promulgated by the state police.

E. As used in this Section, the term "released" means any release, parole, furlough, work release, prerelease, or release in any other manner from a prison, jail, juvenile detention facility, or any other place of confinement.

F.(1) Any person who is serving a term of confinement for the conviction of a felony or other specified crime, including an attempt, conspiracy, criminal solicitation, or accessory after the fact for such offenses and is accepted by the state from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law to continue his confinement shall have a DNA sample drawn or taken upon intake to a prison, jail, or any other detention facility or institution of the state.

(2) Any person who has been convicted of a felony or other specified crime, including an attempt, conspiracy, criminal solicitation, or accessory after the fact for such offenses and has been accepted to the state from another state under a condition of active supervision, shall have a DNA sample drawn or taken within three days after he has reported to the office of probation and parole which will be providing active supervision.

G. A DNA sample shall be withdrawn from the body of any person who dies as a result of being a victim of a crime of violence, as defined in R.S. 14:2(13).

H. The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake.

I. Duly authorized law enforcement and corrections personnel may employ reasonable force in cases where an individual refuses to provide a DNA sample required under this Section and no such employee shall be civilly or criminally liable for the use of such reasonable force.

**RS 15:610. Procedures for withdrawal, collection, and transmission of DNA samples**

A. Each DNA sample required to be drawn under this Chapter from persons who are arrested, incarcerated, or confined shall be drawn at the place of booking, incarceration, or confinement.

DNA samples from persons who are not ordered or sentenced to a term of confinement shall be drawn or taken at a prison, jail unit, juvenile facility, or other facility to be specified by the court.

Only those individuals qualified to draw or take DNA samples in a medically approved manner shall draw or take a DNA sample to be submitted for DNA analysis. The DNA sample and a set of fingerprints taken upon booking shall be delivered to the state police in accordance with state police rules and regulations.

B. A person authorized to draw or take DNA samples under this Chapter shall not be criminally liable for withdrawing a DNA sample and transmitting test results pursuant to this Chapter if he performed these activities in good faith and shall not be civilly liable for such activities when he acted in a reasonable manner according to generally accepted medical and other professional practices.

**RS 15:611. Procedures for conduct, disposition, and use of DNA analysis**

A. The state police shall prescribe procedures to be used in the collection, submission, identification, analysis, storage, and disposition of DNA samples and typing results of DNA samples submitted pursuant to this Chapter. The DNA sample typing results shall be stored in the state DNA data base and records of testing shall be retained on file with the state police.

B. The state police may contract with third parties to effectuate the purposes of this Chapter.

C. Except as otherwise provided in R.S. 15:612(C), the tests to be performed on each DNA sample shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including identification of missing persons.

D. Any other party contracting to carry out the functions of this Chapter shall be subject to the same restrictions and requirements of this Chapter, insofar as applicable, as apply to the state police, and subject to any additional restrictions imposed by the state police.

**RS 15:612. DNA data base exchange**

A. The state police shall receive, store, and perform analysis on DNA samples or contract for DNA typing analysis with a qualified DNA laboratory that meets the guidelines as established by the state police, and shall classify and file the DNA record of identification characteristic profiles of DNA samples submitted under this Chapter and make such information available as provided in this Section. The state police may enter a contract for the storage of DNA typing analysis and for DNA typing analysis with a qualified DNA laboratory that meets guidelines as established by the state police. The results of the DNA profile of individuals in the state DNA data base shall be made available:

- (1) To criminal justice agencies or approved crime laboratories which serve these agencies.
- (2) Upon written or electronic request and in furtherance of an official investigation of a criminal offense or offender or suspected offender.

B. The state police shall adopt guidelines governing the methods of obtaining information from the state DNA data base and procedures for verification of the identity and authority of the requestor.

C. The state police may create a separate population data base comprised of DNA samples obtained under this Chapter after all personal identification is removed. The state police may share or disseminate the population data base with other criminal justice agencies or crime laboratories that serve to assist the state police with statistical data bases. The population data base may be made available to and searched by other agencies participating in the CODIS system.

**RS 15:613. Cancellation of authority to access or exchange DNA records**

The state police, for good cause shown, may revoke or suspend the right of a forensic DNA laboratory within this state to access or exchange DNA identification records with criminal justice agencies.

**RS 15:614. Removal of records**

A. A person whose DNA record or profile has been included in the data base or data bank pursuant to this Chapter may request that his record or profile be removed on the following grounds:

(1) The arrest on which the authority for including his DNA record or profile was based does not result in a conviction or plea agreement resulting in a conviction.

(2) The conviction on which the authority for including his DNA record or profile was based has been reversed and the case dismissed.

B. The state police shall remove all records and identifiable information in the data base or data bank pertaining to the person and destroy all samples from the person upon receipt of a written request for the removal of the record and a certified court order of expungement properly obtained pursuant to the provisions of R.S. 44:9.

**RS 15:615. Repealed by Acts 2003, No. 487, §3, eff. June 20, 2003.****RS 15:616. Confidentiality of records**

Unless otherwise provided, all DNA profiles and samples submitted to the state police pursuant to this Chapter shall be confidential.

**RS 15:617. Disclosure prohibited**

A. Any person, by virtue of employment or official position, or any person contracting to carry out any functions under this Chapter, including any officer, employee, or agent of such contractor, who has possession of or access to individually identifiable DNA information contained in the state DNA data base or in the state DNA data bank shall not disclose it in any manner to any person or agency not authorized to receive it knowing that such person or agency is not authorized to receive it.

B. No person shall obtain individually identifiable DNA information from the state DNA data base or the state DNA data bank without authorization to do so.

**RS 15:618. Criminal penalties**

A. Any person who violates R.S. 15:617(A) shall be fined not more than five hundred dollars or imprisoned with or without hard labor for not more than six months, or both.

B. Any person who knowingly violates R.S. 15:617(B) shall be fined not more than five hundred dollars or imprisoned with or without hard labor for not more than six months, or both.

C. Any person who tampers or attempts to tamper with any sample of blood, tissue, or other bodily fluids or the collection container without lawful authority shall be fined not more than five hundred dollars or imprisoned with or without hard labor for not more than six months, or both.

**RS 15:619. Repealed by Acts 2003, No. 487, §3, eff. June 20, 2003.****RS 15:620. Authority of law enforcement officers**

Nothing in this Chapter shall limit or abrogate any existing authority of law enforcement officers to take, maintain, store, and utilize DNA samples for law enforcement purposes.